

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Tia Diggs

(b) County of Residence of First Listed Plaintiff Philadelphia, PA

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Fred Davis, Esq. - Davis Consumer Law Firm, 500 Office Ctr Drive, Suite 400, Ft. Washington PA 19034 1-855-432-8475

DEFENDANTS

Midland Funding, LLC

County of Residence of First Listed Defendant San Diego, CA

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Lawrence J. Bartel, Esquire, 2000 Market Street, Suite 2300, Philadelphia, PA 19103

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1. U.S. Government Plaintiff
- ☒ 3. Federal Question (U.S. Government Not a Party)
- ☐ 2. U.S. Government Defendant
- ☐ 4. Diversity (Indicates Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place An "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
| Citizen of Subject of a Foreign Country | | | | | |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE / PENALTY | BANKRUPTCY | OTHER STATUTES |
|---|---|---|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits. <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 195 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing / Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities—Employment <input type="checkbox"/> 446 Amer. w/Disabilities—Other <input type="checkbox"/> 440 Other Civil Rights | PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition | | |

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

47 U.S.C. § 227, et seq. and 15 U.S.C. § 1692, et seq.

Brief description of cause:

Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$ N/A
 UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

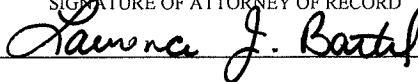
JUDGE

DOCKET NUMBER

DATE

July 7, 2015

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

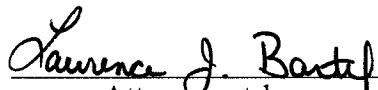
| | | |
|-----------------------------|---|---------------------|
| Tia Diggs | : | CIVIL ACTION |
| | : | |
| v. | : | |
| | : | |
| MIDLAND FUNDING, LLC | : | NO. |

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus-Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security-Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration-Cases require to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos-Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management-Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management--Cases that do not fall into any one of the other tracks. (X)

July 7, 2015
Date


Attorney-at-law
Lawrence J. Bartel,
Esquire.

Defendant, Midland
Funding, LLC
Attorney for

(215) 575-2780
Telephone

(215) 575-0856
FAX Number

Ljbartel@mdwccg.com
E-Mail Address

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

| | | |
|-----------------------------|---|---------------------|
| Tia Diggs | : | CIVIL ACTION |
| | : | |
| v. | : | |
| | : | |
| MIDLAND FUNDING, LLC | : | NO. |

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- (f) Standard Management--Cases that do not fall into any one of the other tracks. (X)

July 7, 2015

Date

Lawrence J. Bartel

Attorney-at-law
Lawrence J. Bartel,
Esquire.

Defendant, Midland
Funding, LLC

Attorney for

(215) 575-2780

Telephone

(215) 575-0856

FAX Number

Ljbartel@mdwccg.com

E-Mail Address

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Tia Diggs c/o Fred Davis, Esq. - Davis Consumer Law Firm, 500 Office Ctr Drive, Suite 400, Ft. Washington PA 19034 1-855-432-8475

Address of Defendant: Midland Funding, LLC c/o Lawrence J. Bartel, Esquire 2000 Market Street, Suite 2300 Philadelphia, PA 19103

Place of Accident, Incident or Transaction: Philadelphia County, Pennsylvania

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☒ No ☐

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. *Federal Question Cases:*

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases
(Please specify)

B. *Diversity Jurisdiction Cases:*

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury
(Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Lawrence J. Bartel, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: July 7, 2015

Lawrence J. Bartel
Attorney-at-Law

94006

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: July 7, 2015

Lawrence J. Bartel
Attorney-at-Law

94006

Attorney I.D.#

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Tia Diggs c/o Fred Davis, Esq. - Davis Consumer Law Firm, 500 Office Ctr Drive, Suite 400, Ft. Washington PA 19034 1-855-432-8475

Address of Defendant: Midland Funding, LLC c/o Lawrence J. Bartel, Esquire 2000 Market Street, Suite 2300 Philadelphia, PA 19103

Place of Accident, Incident or Transaction: Philadelphia County, Pennsylvania

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☒ No ☐

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐ No ☒

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury
(Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

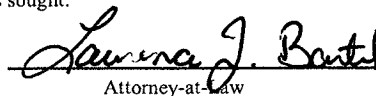
ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Lawrence J. Bartel, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: July 7, 2015


Attorney-at-Law

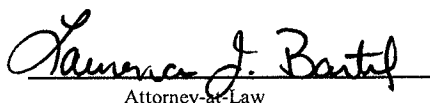
94006

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: July 7, 2015


Attorney-at-Law

94006

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TIA DIGGS,

Plaintiff,

vs.

MIDLAND FUNDING, LLC,

Defendant.

Civil Action No.

NOTICE OF REMOVAL

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. § 1441(b) and 28 U.S.C. § 1331, Defendant, Midland Funding, LLC (hereinafter "MF"), by and through its counsel, Marshall Dennehey Warner Coleman & Goggin, P.C., hereby removes the action captioned as Tia Diggs v. Midland Funding, LLC, docket no. 150600861, as filed in the Court of Common Pleas for Philadelphia County, Pennsylvania ("the Action"), to the United States District Court for the Eastern District of Pennsylvania, based upon the following:

1. On or about June 5, 2015 Plaintiff filed the Action in the Court of Common Pleas for Philadelphia County, Pennsylvania. A true and correct copy of Plaintiff's Complaint in the Action is attached hereto as Exhibit "A."

2. MF first received notice of the Action on June 8, 2015, when it was served with Plaintiff's Complaint.

3. Based on the foregoing, MF has timely filed this Notice of Removal within thirty days of being served with the Complaint and

within thirty days of the date that the Action was first removable. See 28 U.S.C. § 1446(b).

4. The Action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1331, and is one which may be removed to this Court by MF pursuant to the provisions of 28 U.S.C. § 1441(b), in that Plaintiff has alleged that MF violated the Fair Debt Collections Practices Act, 15 U.S.C. § 1692, et seq., thereby asserting claims that arise under federal law.

5. In that the causes of action alleged by the Plaintiff arise from the performance of obligations of the parties within Philadelphia County, Pennsylvania, the United States District Court for the Eastern District of Pennsylvania should be assigned the Action.

6. Pursuant to 28 U.S.C. § 1446(d), MF will file a copy of this Notice of Removal with the Clerk of the United States District Court for the Eastern District of Pennsylvania, will serve Plaintiff with copies of this Notice of Removal and will file the Notice of Removal in the Philadelphia County Court of Common Pleas.

WHEREFORE, Defendant, Midland Funding, LLC notifies this Court that this Action is removed from the Court of Common Pleas for Philadelphia County, Pennsylvania to the United States District Court for the Eastern District of Pennsylvania pursuant to the provisions of 28 U.S.C. §§1331, and 1446.

Respectfully submitted,

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN, P.C.**

By: Laurence J. Bartel
Lawrence J. Bartel, ESQUIRE
2000 Market Street, Suite 2300
Philadelphia, PA 19103
(215) 575-2780 / (215) 575-0856 (f)
Ljbartel@mdwgcg.com
Attorneys for Defendant
Midland Funding, LLC

Dated: July 7, 2015

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TIA DIGGS,

Plaintiff,

vs.

MIDLAND FUNDING, LLC,

Defendant.

Civil Action No.

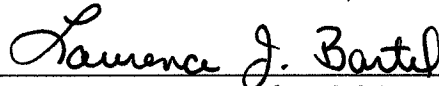
CERTIFICATE OF SERVICE

I, Lawrence J. Bartel, Esquire, do hereby certify that a true and correct copy of Defendant, Midland Funding, LLC's Notice of Removal was served upon the below-listed counsel of record by regular mail on June 8, 2015:

Fred Davis, Esquire
Davis Consumer Law Firm, LLC
500 Office Center Drive, Suite 400
Ft. Washington, PA 19034
Attorneys for Plaintiff
Tia Diggs

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN, P.C.**

By:



Lawrence J. Bartel, ESQUIRE
Attorneys for Defendant
Midland Funding, LLC

Dated: July 7, 2015

EXHIBIT "A"

Court of Common Pleas of Philadelphia County
Trial Division

Civil Cover Sheet

| | | | |
|--|--|---|---|
| PLAINTIFF'S NAME TIA DIGGS | | DEFENDANT'S NAME MIDLAND FUNDING LLC | |
| PLAINTIFF'S ADDRESS 1532 E. DUVAL ST. PHILA PA 19138 | | DEFENDANT'S ADDRESS 8875 AERO DR-STE 200 SAN DIEGO CA 92123 | |
| PLAINTIFF'S NAME | | DEFENDANT'S NAME | |
| PLAINTIFF'S ADDRESS | | DEFENDANT'S ADDRESS | |
| PLAINTIFF'S NAME | | DEFENDANT'S NAME | |
| PLAINTIFF'S ADDRESS | | DEFENDANT'S ADDRESS | |
| TOTAL NUMBER OF PLAINTIFFS 1 | TOTAL NUMBER OF DEFENDANTS 1 | COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions | |
| AMOUNT IN CONTROVERSY <input checked="" type="checkbox"/> \$50,000.00 or less <input type="checkbox"/> More than \$50,000.00 | COURT PROGRAMS <input checked="" type="checkbox"/> Arbitration <input type="checkbox"/> Jury <input type="checkbox"/> Non-Jury <input type="checkbox"/> Other: | <input type="checkbox"/> Mass Tort <input type="checkbox"/> Savings Action <input type="checkbox"/> Petition <input type="checkbox"/> Commerce <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> Settlement <input type="checkbox"/> Minors <input type="checkbox"/> W/D/Survival | |
| CASE TYPE AND CODE 10 - CONTRACTS OTHER | | | |
| STATUTORY BASIS FOR CAUSE OF ACTION | | | |
| RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER) | | | IS CASE SUBJECT TO COORDINATION ORDER? YES NO |
| TO THE PROTHONOTARY: Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: <u>TIA DIGGS</u> Papers may be served at the address set forth below. | | | |
| NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY FRED E. DAVIS | | ADDRESS 500 OFFICE CTR DR SUITE 400 FT. WASHINGTON PA 19034 | |
| PHONE NUMBER (855) 432-8475 | FAX NUMBER (855) 435-2294 | | |
| SUPREME COURT IDENTIFICATION NO. 93907 | | E-MAIL ADDRESS freddavis04@aol.com | |
| SIGNATURE OF FILING ATTORNEY OR PARTY FRED DAVIS | | DATE SUBMITTED Tuesday, June 02, 2015, 11:09 am | |

PRELIMINARY COPY (For Approval by the Prothonotary Clerk)

Fred Davis, Esquire
Identification No. 93907
DAVIS CONSUMER LAW FIRM
500 OFFICE CTR DR-STE 400
FT. WASHINGTON, PA 19034
(T)1-855-432-8475/(F)1-855-435-9294
fdavis@usacreditlawyer.com

ATTORNEY FOR PLAINTIFF

THIS IS AN ARBITRATION MATTER.
ASSESSMENT OF DAMAGES
HEARING IS REQUESTED.

TIA DIGGS
1532 E. Duval St.
Phila, PA
19138

Plaintiff

v.

MIDLAND FUNDING, LLC
8875 Aero Dr.-Ste 200
San Diego, CA
92123

Defendant

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

CIVIL ACTION

DOCKET NO.:

NOTICE TO DEFEND
CODE: 1900

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you.

You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

**PHILADELPHIA COUNTY BAR ASSOCIATION-LAWYER REFERRAL& INFO
SERVICE**

Philadelphia Bar Association
101 Market Street, 11th Floor
Phila, PA 19107
Phone: (215) 238-6300
Fax: (215) 238-1159

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, le corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademias, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

**LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE, SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO.
VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.**

SERVICIO DE REFERENCIA LEGAL
Colegio de Abogados de Philadelphia
101 Market Street, 11th Floor
Phila, PA 19107
Phone: (215) 238-6300
Fax: (215) 238-1159

Fred Davis, Esquire
Identification No. 93907
DAVIS CONSUMER LAW FIRM
500 OFFICE CTR DR-STE 400
FT. WASHINGTON, PA 19034
(T)1-855-432-8475/(F)1-855-435-9294
fdavis@usacreditlawyer.com

ATTORNEY FOR PLAINTIFF

THIS IS AN ARBITRATION MATTER.
ASSESSMENT OF DAMAGES HEARING IS
REQUESTED.

TIA DIGGS
1532 E. Duval St.
Phila, PA
19138

Plaintiff

v.

MIDLAND FUNDING, LLC
8875 Aero Dr.-Ste 200
San Diego, CA
92123

Defendant

COURT OF COMMON PLEAS

PHILADELPHIA COUNTY

CIVIL ACTION

COMPLAINT

1. Plaintiff, TIA DIGGS, is an adult individual citizen and legal resident of the State of Pennsylvania, living at 1532 E. Duval St. St, Phila, Pa 19138.
2. Defendant, MIDLAND FUNDING, LLC, is a business corporation qualified to and regularly conducting business in, the Commonwealth of Pennsylvania, with its legal residence and principal place of business at 8875 Aero Dr.-Ste 200, San Diego, CA 92123. Defendant can be served at that address.
3. Plaintiff avers that at all times material hereto, Defendant acted by and through its authorized agents, servants, officers, and/or employees, including Defendant, all of whom were acting within the scope of their employment.

JURISDICTION AND VENUE

4. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction”.

5. Defendant regularly conducts business in the State of Pennsylvania and in the County of Philadelphia, therefore, personal jurisdiction is established.

6. Venue is proper in Philadelphia County pursuant to Pennsylvania Rules of Civil Procedure 1006 and 2179.

7. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.

PARTIES

8. Plaintiff is a natural person residing in Phila, PA.

9. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3), as the alleged debt at issue was acquired in the pursuit of consumer related purposes, such as purchasing household goods and supplies, clothing, food, and for other non-commercial goods and services.

10. Defendant, MIDLAND FUNDING, LLC, is a company handling debt collection matters with headquarters located at 8875 Aero Dr.-Ste 200, San Diego, CA 92123.

11. Defendant is a debt collector as that term is defined by 15 U.S.C. §1692a(6), and sought to collect a consumer debt from Plaintiff as described above. Defendant identifies itself as a debt collector in virtual marketing and in court filings.

12. Defendant acted through their agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

ACTUAL ALLEGATIONS

13. On July 24, 2014, Defendant filed a lawsuit against Plaintiff in the Philadelphia Municipal Court. The suit sought damages of \$943.33 for an alleged default on a "CAPITAL ONE BANK (USA), N.A." credit account ending in "6515" which Defendant alleges it purchased from "CAPITAL ONE BANK (USA), N.A.". See Exhibit "A".

14. Plaintiff alleges and avers that Defendant misrepresented the legal status of the alleged debt by arguing that it was an assignee and/or successor in interest to "CAPITAL ONE BANK (USA), N.A." without providing any documentary proof of assignment or charge-off by the "CAPITAL ONE BANK (USA), N.A.", in violation of 15 U.S.C. §1692e.

15. Plaintiff further alleges and avers that Defendant's lawsuit constitutes a misrepresentation surrounding the nature and legal status of the alleged debt because Defendant's lawsuit to collect this alleged debt was time-barred by the four-year statute of limitations as imposed by 42 Pa. C.S. § 5525(a)(1), in violation of 15 U.S.C. §1692e.

16. Plaintiff further alleges and avers that Defendant's lawsuit constitutes an action which cannot be legally taken, because Defendant lacked standing to file the Philadelphia Municipal Court lawsuit, in violation of 15 U.S.C. §1692e.

17. Plaintiff further alleges and avers Defendant made or caused to be

made numerous, offensive phone calls to Plaintiff and unrelated third-parties attempting to collect the alleged "debt", and often times failed to properly identify itself, in violation of 15 U.S.C. §§ 1692c(a)(1) and d.

18. Plaintiff further alleges and avers that Defendant failed to notify the relevant credit bureaus that the alleged debt was in dispute, in violation of 15 U.S.C. § 1692e.

19. Plaintiff further alleges and avers that Defendant had no intention of prosecuting the case and thereby violated 15 U.S.C. § 1692(e)(5).

COUNT I
THE FAIR DEBT COLLECTION PRACTICES ACT

20. In its actions to collect a disputed debt, Defendant violated the FDCPA in one or more of the following ways:

- a. Harassing, oppressing or abusing Plaintiff in connection with the collection of a debt in violation of 15 U.S.C. § 1692d.
- b. Using misrepresentations or deceptive means to collect a debt in violation of 15 U.S.C. § 1692e(10).
- c. Using unfair or unconscionable means to collect a debt in violation of 15 U.S.C. § 1692f.
- d. Attempting to collect an amount not authorized by contract or law in violation of 15 U.S.C. § 1692f.
- e. By acting in an otherwise deceptive, unfair and unconscionable manner and failing to comply with the FDCPA.

WHEREFORE, Plaintiff, TIA DIGGS, respectfully prays for a judgment

as follows:

- a. All actual compensatory damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
 - b. Statutory damages of \$1,000.00 for each violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
 - c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
- Any other relief deemed appropriate by this Honorable Court.

DAVIS CONSUMER LAW FIRM

By: 

Fred Davis-PA ID# 93907
Attorney for Plaintiff, TIA DIGGS
500 Office Center Drive-Suite 400
Ft. Washington, PA 19034
Tel - 1-855-432-8475/Facsimile-1-855-435-9294
Email: fdavis@usacreditlawyer.com

VERIFICATION

Fred Davis, states that he is the attorney for the Plaintiff herein; that he is acquainted with the facts set forth in the foregoing Complaint; that same are true and correct to the best of his knowledge, information and belief; and that this statement is made subject to the Penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsifications to authorities.

DAVIS CONSUMER LAW FIRM

By:



Fred Davis-PA ID# 93907
Attorney for Plaintiff, TIA DIGGS
500 Office Center Drive-Suite 400
Ft. Washington, PA 19034
Tel - 1-855-432-8475/Facsimile-1-855-435-9294
Email: fdavis@usacreditlawyer.com



**PHILADELPHIA MUNICIPAL COURT
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA**

1339 Chestnut Street, 10th Floor, Philadelphia, PA 19107

Marsha H. Neiffeld, President Judge Patricia R. McDermott, Deputy Court Administrator

STATEMENT OF CLAIM

Code: Consumer Purchase - (4)

SC/CP: # SC-14-07-24-5961

Midland Funding, LLC
8875 Aero Drive Suite 200
San Diego, CA 92123

TIA DIGGS
1532 E Duval St.
Philadelphia, PA 19138

Plaintiff(s)

Defendant(s)

Service Address (information) if other than above:

To the Defendant: Plaintiff is seeking a money judgment against the Defendant(s) based on the following claim:
Plaintiff is the owner of a certain credit card account (hereinafter "the Account") by virtue of the assignment of the account. As a result of the assignment, plaintiff now holds all rights, title and interest in and to the account. Upon information and belief, the defendant entered into a revolving credit card agreement with CAPITAL ONE BANK (USA), N.A., received a credit card for the account bearing the last 4 numbers of XXXXXXXXXX6515 and used or authorized the use of said card to for the purpose of obtaining goods and/or services and/or cash advances. Based upon of records kept on behalf of plaintiff, the last payment posted to the account on 10/05/2011. The account shows that the defendant owes a balance of \$943.33 . File 295142

Summons to the Defendant

You are hereby ordered to appear at a hearing scheduled as follows:

Citation al Demandado

Por la presenta, Usted esta dirijido a presentarse a la siguiente:

1339 Chestnut Street 6th Floor
Philadelphia, PA 19107
Hearing Room: 5

September 26th, 2014

01:00 PM

Amount Claimed

| | | |
|------------------------|-----------|----------------|
| Principal | \$ | 943.33 |
| Interest | \$ | 0.00 |
| Attorney Fees | \$ | 0.00 |
| Other Fees | \$ | 0.00 |
| Subtotal | \$ | 943.33 |
| Service | \$ | 45.00 |
| State Fee | \$ | 10.00 |
| Automation Fee | \$ | 5.50 |
| Convenience Fee | \$ | 5.00 |
| JCS St. Add. Surcharge | \$ | 11.25 |
| JCS St. Add. Fee | \$ | 2.25 |
| Court Costs | \$ | 22.00 |
| TOTAL CLAIMED | \$ | 1044.33 |

Date Filed: 07/24/2014

I am an attorney for the plaintiff(s), the plaintiff's authorized representative or have a power of attorney for the plaintiff(s) in this statement of claims action. I hereby verify that I am authorized to make this verification; that I have sufficient knowledge, information and belief to take this verification or have gained sufficient knowledge, information and belief from communications with the plaintiff or the persons listed below and that the facts set forth are true and correct to the best of my knowledge, information and belief. I understand that this verification is made subject to the penalties set forth in 18 Pa. C.S. § 4904, which concerns the making of unsworn falsifications to authorities. If I am an authorized representative or have a power of attorney, I have attached a completed Philadelphia Municipal Court authorized representative form or a completed power of attorney form.

DANIEL J. SANTUCCI

Signature Plaintiff/Attorney
Atty ID #: 092800

Address & Phone 1 INTERNATIONAL PLAZA 5TH FLOOR
PHILADELPHIA, PA 19113
800-265-8825

NOTICE TO THE DEFENDANT, YOU HAVE BEEN SUED IN COURT.
PLEASE SEE ATTACHED NOTICES

AVISO AL DEMANDADO LE HAN DEMANDADO EN CORTE. VEA POR FAVOR
LOS AVISOS ASOCIADOS.

If you wish to resolve this matter without appearing in court, please contact the attorney shown above immediately.

PCTF EX "A"

Verification

Tanya Johnson, whose business address is 16 Mclelland Road Suite 101, St. Cloud, MN 56303, certifies and says:

1. I am employed as a Legal Specialist, and have access to pertinent account records for Midland Credit Management, Inc. ("MCM"), servicer of this account on behalf of plaintiff. I am a competent person over eighteen years of age, and make the statements herein based upon personal knowledge of those account records maintained on plaintiff's behalf. Plaintiff is the current owner of and/or successor to, the obligation sued upon, and was assigned all the rights, title and interest to defendant's CAPITAL ONE BANK (USA), N.A. account XXXX-XXXX-XXXX-6515 (MCM Number 8560369171) (hereinafter "the account"). I have access to and have reviewed the records pertaining to the account and am authorized to make this verification on plaintiff's behalf.
2. Based upon my review of MCM's business records; defendant(s) opened the CAPITAL ONE BANK (USA), N.A. account on 2004-12-06 and the account was charged off on 2010-05-24.
3. MCM's records show that the defendant(s) owed a balance of \$943.33 as of 2014-07-01.

I certify under penalty of perjury that the foregoing statements are true and correct. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

JUL 14 2014
Date


Tanya Johnson

CA117

Midland Funding, LLC

PLTF EX "B"